

AMENDED IN SENATE AUGUST 9, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY JANUARY 13, 2010

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 25

**Introduced by Committee on Environmental Safety and Toxic
Materials (*Nava (Chair), Miller (Vice Chair), Blakeslee, Chesbro,
Davis, Feuer, Monning, Ruskin, and Smyth*)**

December 1, 2008

An act to amend Section ~~25205.16~~ 25160.2 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 25, as amended, Committee on Environmental Safety and Toxic Materials. Hazardous waste: identification number certification system. waste transportation: consolidated manifest.

(1) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and establishes a procedure for a consolidated manifest, to be used by generators and transporters for certain types of hazardous waste. A generator using the consolidated manifesting procedure is required to meet specified requirements, including having an identification number. A violation of the hazardous waste control laws is a crime.

This bill would allow the consolidating manifesting procedure to be used for the receipt, by a transporter, of one shipment of used oil from a generator whose identification number has been suspended, if certain requirements are met. The bill would provide that this exemption would become inoperative on and after January 1, 2014.

Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the Department of Toxic Substances Control to impose an annual verification fee upon certain hazardous waste generators, transporters, and facility operators and requires the department to establish an identification number certification system to verify the accuracy of information. Existing law provides for the suspension of an identification number of a generator, transporter, or facility operator who does not comply with certain requirements.~~

~~This bill would require the department, by July 1, 2011, to revise the identification number certification system to provide a method for an immediate reactivation of a suspended identification number of a hazardous waste generator and would require the department to charge a fee for the reactivation, to be deposited in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.~~

~~The~~

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25160.2 of the Health and Safety Code
- 2 is amended to read:
- 3 25160.2. (a) In lieu of the procedures prescribed by Sections
- 4 25160 and 25161, transporters and generators of hazardous waste
- 5 meeting the conditions in this section may use the consolidated

1 manifesting procedure set forth in subdivision (b) to consolidate
2 shipments of waste streams identified in subdivision (c) collected
3 from multiple generators onto a single consolidated manifest.

4 (b) The following consolidated manifesting procedure may be
5 used only for non-RCRA hazardous waste or for RCRA hazardous
6 waste that is not required to be manifested pursuant to the federal
7 act or the federal regulations adopted pursuant to the federal act
8 and transported by a registered hazardous waste transporter, and
9 used only with the consent of the generator:

10 (1) A separate manifest shall be completed by each vehicle
11 driver, with respect to each transport vehicle operated by that driver
12 for each date.

13 (2) The transporter shall complete both the generator's and the
14 transporter's section of the manifest using the transporter's name,
15 identification number, terminal address, and telephone number.
16 The generator's and transporter's sections shall be completed prior
17 to commencing each day's collections. The driver shall sign and
18 date the generator's and transporter's sections of the manifest.

19 (3) The transporter shall attach to the front of the manifest
20 legible receipts for each quantity of hazardous waste that is
21 received from a generator. The receipts shall be used to determine
22 the total volume of hazardous waste in the vehicle. After the
23 hazardous waste is delivered, the receipts shall be affixed to the
24 transporter's copy of the manifest. The transporter shall leave a
25 copy of the receipt with the generator of the hazardous waste. The
26 generator shall retain each receipt for at least three years. This
27 period of retention is extended automatically during the course of
28 any unresolved enforcement action regarding the regulated activity
29 or as requested by the department or a certified unified program
30 agency.

31 (4) All copies of each receipt shall contain all of the following
32 information:

33 (A) The name, address, identification number, contact person,
34 and telephone number of the generator, and the signature of the
35 generator or the generator's representative.

36 (B) The date of the shipment.

37 (C) The manifest number.

38 (D) The volume or quantity of each waste stream received, its
39 California and RCRA waste codes, the waste stream type listed in
40 subdivision (c), and its proper shipping description, including the

1 hazardous class and United Nations/North America (UN/NA)
2 identification number, if applicable.

3 (E) The name, address, and identification number of the
4 authorized facility to which the hazardous waste will be
5 transported.

6 (F) The transporter's name, address, and identification number.

7 (G) The driver's signature.

8 (H) A statement, signed by the generator, certifying that the
9 generator has established a program to reduce the volume or
10 quantity and toxicity of the hazardous waste to the degree, as
11 determined by the generator, to be economically practicable.

12 (5) The transporter shall enter the total volume or quantity of
13 each waste stream transported on the manifest at the change of
14 each date, change of driver, or change of transport vehicle. The
15 total volume or quantity shall be the cumulative amount of each
16 waste stream collected from the generators listed on the individual
17 receipts. In lieu of submitting a copy of each manifest used, a
18 facility operator may submit an electronic report to the department
19 meeting the requirements of Section 25160.3.

20 (6) The transporter shall submit the generator copy of the
21 manifest to the department within 30 days of each shipment.

22 (7) The transporter shall retain a copy of the manifest and all
23 receipts for each manifest at a location within the state for three
24 years. This period of retention is extended automatically during
25 the course of any unresolved enforcement action regarding the
26 regulated activity or as requested by the department or a certified
27 unified program agency.

28 (8) The transporter shall submit all copies of the manifest to the
29 designated facility. A representative of the designated facility that
30 receives the hazardous waste shall sign and date the manifest,
31 return two copies to the transporter, retain one copy, and send the
32 original to the department within 30 days.

33 (9) All other manifesting requirements of Sections 25160 and
34 25161 shall be complied with unless specifically exempted under
35 this section. If an out of state receiving facility is not required to
36 submit the signed manifest copy to the department, the consolidated
37 transporter, acting as generator, shall submit a copy of the manifest
38 signed by the receiving facility to the department pursuant to
39 paragraph (3) of subdivision (b) of Section 25160.

1 (10) ~~Each~~ *Except as provided by subdivision (e), each* generator
2 using the consolidated manifesting procedure shall have an
3 identification number, unless exempted from manifesting
4 requirements by action of Section 25143.13 for generators of
5 photographic waste less than 100 kilograms per calendar month.

6 (c) The consolidated manifesting procedure set forth in
7 subdivision (b) may be used only for the following waste streams
8 and in accordance with the conditions specified below for each
9 waste stream:

10 (1) Used oil and the contents of an oil/water separator, if the
11 separator is a catch basin, clarifier, or similar collection device
12 that is used to collect water containing residual amounts of one or
13 more of the following: used oil, antifreeze, or other substances and
14 contaminants associated with activities that generate used oil and
15 antifreeze.

16 (2) The wastes listed in subparagraph (A) may be manifested
17 under the procedures specified in this section only if all of the
18 requirements specified in subparagraphs (B) and (C) are satisfied.

19 (A) Wastes eligible for consolidated manifesting:

20 (i) Solids contaminated with used oil.

21 (ii) Brake fluid.

22 (iii) Antifreeze.

23 (iv) Antifreeze sludge.

24 (v) Parts cleaning solvents, including aqueous cleaning solvents.

25 (vi) Hydroxide sludge contaminated solely with metals from a
26 wastewater treatment process.

27 (vii) "Paint-related" wastes, including paints, thinners, filters,
28 and sludges.

29 (viii) Spent photographic solutions.

30 (ix) Dry cleaning solvents (including percholoroethylene,
31 naphtha, and silicone based solvents).

32 (x) Filters, lint, and sludges contaminated with dry cleaning
33 solvent.

34 (xi) Asbestos and asbestos-containing materials.

35 (xii) Inks from the printing industry.

36 (xiii) Chemicals and laboratory packs collected from K-12
37 schools.

38 (xiv) Absorbents contaminated with other wastes listed in this
39 section.

40 (xv) Filters from dispensing pumps for diesel and gasoline fuels.

1 ~~(xvi) Disabled vehicle wastes, as defined in subdivision (a) of~~
2 ~~Section 25163.2.~~

3 ~~(xvii)~~

4 ~~(xvi)~~ Any other waste, as specified in regulations adopted by
5 the department.

6 (B) The generator does not generate more than 1,000 kilograms
7 per calendar month of hazardous waste and meets the conditions
8 of paragraph (1) of subdivision (h) of Section 25123.3. For the
9 purpose of calculating the 1,000 kilograms per calendar month
10 limit described in this section, the generator may exclude the
11 volume of used oil and the contents of the oil/water separator that
12 is managed pursuant to paragraph (1) of subdivision (c).

13 (C) (i) The generator enters into an agreement with the
14 transporter in which the transporter agrees that the transporter will
15 submit a confirmation to the generator that the hazardous waste
16 was transported to an authorized hazardous waste treatment facility
17 for appropriate treatment. The agreement may provide that the
18 hazardous waste will first be transported to a storage or transfer
19 facility in accordance with the applicable provisions of law.

20 (ii) The treatment requirement specified in clause (i) does not
21 apply to asbestos, asbestos-containing materials, and chemicals
22 and laboratory packs collected from K-12 schools, or any other
23 waste stream for which the department determines there is no
24 reasonably available treatment methodology or facility. These
25 wastes shall be transported to an authorized facility.

26 (d) Transporters using the consolidated manifesting procedure
27 set forth in this section shall submit quarterly reports to the
28 department 30 days after the end of each quarter. The first quarterly
29 report shall be submitted on October 31, 2002, covering the July
30 to September 2002 period, and every three months thereafter.
31 Except as otherwise specified in paragraph (1), the quarterly report
32 shall be submitted in an electronic format provided by the
33 department.

34 The department shall make all of the information in the quarterly
35 reports submitted pursuant to this subdivision available to the
36 public, through its usual means of disclosure, except the department
37 shall not disclose the association between any specific transporter
38 and specific generator. The list of generators served by a transporter
39 shall be deemed to be a trade secret and confidential business

1 information for purposes of Section 25173 and Section 66260.2
2 of Title 22 of the California Code of Regulations.

3 (1) Transporters that use the consolidated manifesting procedure
4 for less than 1,000 tons per calendar year ~~may submit the report~~
5 ~~in a paper format through October 31, 2003. After that date, they~~
6 may apply to the department to continue submitting paper format
7 reports.

8 (2) For each transporter's name, terminal address, and
9 identification number, the quarterly report shall include the
10 following information for each generator for each consolidated
11 manifest:

12 (A) The name, address, and identification number, the contact
13 persons's name, and the telephone number of each generator.

14 (B) The date of the shipment.

15 (C) The manifest number.

16 (D) The volume or quantity of each waste stream received, its
17 California and RCRA waste code, and the waste stream category
18 listed in subdivision (c).

19 *(e) (1) Notwithstanding paragraph (10) of subdivision (a), the*
20 *consolidated manifesting procedure may be used for the receipt,*
21 *by a transporter, of one shipment of used oil from a generator*
22 *whose identification number has been suspended for a violation*
23 *of Section 25205.16, if all of the following requirements are met:*

24 *(A) The transporter verifies that the identification number was*
25 *suspended for a violation of Section 25205.16.*

26 *(B) The generator notifies the department within 24 hours that*
27 *the transporter accepted the shipment.*

28 *(C) The transporter notifies the department within 24 hours*
29 *that it accepted the shipment from the generator.*

30 *(D) The generator complies with Section 25205.16 within 30*
31 *days from the date the transporter accepts the shipment.*

32 *(2) The exemption provided by this subdivision shall become*
33 *inoperative on and after January 1, 2014.*

34 ~~(e) It is the intent of the Legislature that upon the effective date~~
35 ~~of the act adding this statute, that Section 66263.42 of Title 22 of~~
36 ~~the California Code of Regulations, relating to specific~~
37 ~~requirements for milkrun operations, and subdivision (d) of Section~~
38 ~~66262.12, relating to identification numbers for generators, be~~
39 ~~repealed. The department shall repeal these provisions pursuant~~
40 ~~to Section 100 of Title 1 of the California Code of Regulations.~~

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) It is the intent of the Legislature, in enacting this act, to~~
4 ~~ensure that all hazardous waste is collected by a registered~~
5 ~~hazardous waste transporter as expeditiously as possible in full~~
6 ~~compliance with all of California's hazardous waste laws and~~
7 ~~regulations.~~

8 ~~(b) The Legislature recognizes that a large number of hazardous~~
9 ~~waste generator identification numbers are suspended each year~~
10 ~~due to the failure of the generator to recertify the generator's~~
11 ~~information with the Department of Toxic Substances Control~~
12 ~~Board.~~

13 ~~(c) It is imperative that the Department of Toxic Substances~~
14 ~~Control Board develop a reactivation process for generator~~
15 ~~identification numbers as soon as possible to ensure that the~~
16 ~~hazardous waste laws and regulations are fully complied with by~~
17 ~~all generators.~~

18 ~~SEC. 2. Section 25205.16 of the Health and Safety Code is~~
19 ~~amended to read:~~

20 ~~25205.16. (a) (1) The department may impose an annual~~
21 ~~verification fee upon all generators, transporters, and facility~~
22 ~~operators with 50 or more employees that possess a valid~~
23 ~~identification number issued either by the department or by the~~
24 ~~Environmental Protection Agency. The fee charged shall be one~~
25 ~~hundred fifty dollars (\$150) for each generator, transporter, and~~
26 ~~facility operator with 50 or more employees, but less than 75~~
27 ~~employees; one hundred seventy-five dollars (\$175) for each~~
28 ~~generator, transporter, and facility operator with 75 or more~~
29 ~~employees, but less than 100 employees; two hundred dollars~~
30 ~~(\$200) for each generator, transporter, and facility operator with~~
31 ~~100 or more employees, but less than 250 employees; two hundred~~
32 ~~twenty-five dollars (\$225) for each generator, transporter, and~~
33 ~~facility operator with 250 or more employees, but less than 500~~
34 ~~employees; two hundred fifty dollars (\$250) for each generator,~~
35 ~~transporter, and facility operator with 500 or more employees.~~
36 ~~However, no generator, transporter, or facility operator shall be~~
37 ~~assessed fees pursuant to this section that exceed, in total, five~~
38 ~~thousand dollars (\$5,000).~~

39 ~~(2) The generator, transporter, or facility operator subject to~~
40 ~~the fee shall submit payment of the fee within 30 days from the~~

1 date of receiving a notice of assessment from the department. The
2 notice shall be sent once during each fiscal year to each holder of
3 a valid identification number. The fee imposed by this section shall
4 be deposited in the Hazardous Waste Control Account and be
5 available for expenditure, upon appropriation by the Legislature.
6 For purposes of this section, the number of employees that are
7 employed by a generator, transporter, or facility operator shall be
8 calculated using the same method set forth in subdivision (c) of
9 Section 25205.6.

10 (b) The department shall establish an identification number
11 certification system to biennially verify the accuracy of information
12 related to generators, transporters, and facilities authorized to treat,
13 store, or dispose of hazardous waste. However, if the number of
14 identification numbers issued since the previous certification
15 exceeds 20 percent of the active identification numbers, the
16 department may implement an annual certification. Each entity
17 issued an identification number shall provide or verify the
18 information specified in paragraphs (1) to (9), inclusive, when
19 requested by the department. The system shall include the provision
20 or verification of all of the following information:

21 (1) The name, mailing address, facsimile number, fictitious
22 business name, federal employer number, State Board of
23 Equalization identification number, SIC code, electronic mail
24 address, if available, and telephone number of the firm or
25 organization engaged in hazardous waste activities.

26 (2) The name, mailing address, facsimile number, and telephone
27 number of the owner of the firm or organization.

28 (3) The name, title, mailing address, facsimile number, and
29 telephone number of a contact person for the firm or organization.

30 (4) The identification number assigned to the firm or
31 organization.

32 (5) The site location address or description associated with the
33 firm or organization's identification number provided in paragraph
34 (4).

35 (6) The number of employees of the firm or organization.

36 (7) If the firm or organization is a generator, a statement of
37 whether the generator produces RCRA hazardous waste or
38 non-RCRA hazardous waste.

39 (8) An identification of any of the following hazardous waste
40 activities in which the firm or organization is engaged:

1 ~~(A) Generation.~~

2 ~~(B) Transportation.~~

3 ~~(C) Onsite treatment, storage, or disposal.~~

4 ~~(9) The waste codes associated with the four largest hazardous~~
5 ~~waste streams, by volume, of the firm or organization. The federal~~
6 ~~waste code shall be verified for RCRA hazardous waste and the~~
7 ~~California waste code shall be verified for non-RCRA hazardous~~
8 ~~waste.~~

9 ~~(e) A generator, transporter, and facility operator who fails to~~
10 ~~comply with this section, or who fails to provide information~~
11 ~~required by the department to verify the accuracy of hazardous~~
12 ~~waste activity data, shall be subject to suspension of any and all~~
13 ~~identification numbers assigned to the generator, transporter, or~~
14 ~~facility operator and to any other authorized enforcement action.~~

15 ~~(d) (1) On or before July 1, 2011, the department shall revise~~
16 ~~the identification number certification system established pursuant~~
17 ~~to this section to provide a method for the immediate reactivation~~
18 ~~of a suspended identification number of a hazardous waste~~
19 ~~generator by means of a wireless communication device to~~
20 ~~reactivate the suspended identification number.~~

21 ~~(2) The department shall establish and charge a fee for the~~
22 ~~reactivation of an identification number pursuant to paragraph (1)~~
23 ~~to cover the full administrative costs associated with the~~
24 ~~implementation of that provision. The fee imposed by this~~
25 ~~subdivision shall be deposited in the Hazardous Waste Control~~
26 ~~Account and be available for expenditure, upon appropriation by~~
27 ~~the Legislature, for those costs.~~

28 *SEC. 2. No reimbursement is required by this act pursuant to*
29 *Section 6 of Article XIII B of the California Constitution because*
30 *the only costs that may be incurred by a local agency or school*
31 *district will be incurred because this act creates a new crime or*
32 *infraction, eliminates a crime or infraction, or changes the penalty*
33 *for a crime or infraction, within the meaning of Section 17556 of*
34 *the Government Code, or changes the definition of a crime within*
35 *the meaning of Section 6 of Article XIII B of the California*
36 *Constitution.*

37 *SEC. 3. This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety within*
39 *the meaning of Article IV of the Constitution and shall go into*
40 *immediate effect. The facts constituting the necessity are:*

1 In order to ensure that the hazardous waste laws and regulations
2 are fully complied with as soon as possible, thereby protecting the
3 public health and safety and the environment, it is necessary that
4 this act take effect immediately.

O